

## REMARKS

In the non-final Office Action dated December 14, 2005 pending claims 1-10 and 19-54 were rejected under 35 U.S.C. § 103(a) in view of the Office's citations to the prior art references of U.S. Patents 6,258,928 to Crosby et al., 6,516,466 to Jackson, and 6,526,335 to Treyz et al. (hereinafter referred respectively as Crosby, Jackson, and Treyz). The Office has withdrawn rejections based on a non-prior art reference (U.S. Patent No. 6,895,238 to Newell et al., hereinafter Newell) for which the Applicant is appreciative. The aforementioned claim amendments, Applicant respectfully asserts as discussed below, are now allowable over the cited prior art of Crosby, Jackson, and Treyz.

### COMMENTARY REGARDING OFFICE ACTION'S "RESPONSE TO ARGUMENTS"

This Office action has declared that the "...teachings of Crosby are considered as admitted prior art for those limitations" of the claimed invention due to the lack of argumentation by the Applicant regarding the Crosby reference that was combined with the non-prior art Newell reference in Applicant's prior Response mailed September 14, 2005 to a previous Office Action (dated June 14, 2005). Applicant respectfully submits that this lack of argumentation against Crosby in the Applicant's prior Response is not, nor is to be construed as an admission by the Applicant that Crosby is "admitted prior art" as evidenced, at least in part, by Applicant's traversal of Crosby in at least one previous response.

### REJECTIONS UNDER § 103

In this December 15, 2005 Office Action, pending claims 1-7, 9-10, 19-23, 25-33, 35-40, 42-51, and 53-54 of application to Odinak et al. (hereinafter Odinak) were rejected under 35 U.S.C. § 103(a) as being unpatentable by Crosby and by the combination of Crosby and Jackson.

Claims 8, 24, 34, 41 and 52 are rejected as being unpatentable by the combination of Crosby, Jackson and Treyz.

With regards to claims 1-7 and 9-10 of Applicant Odinak, currently amended Claim 1 reflects the recording of a request after transmission of content. Per FIGURES 1-2 and paragraphs 0020-0021 of Applicant Odinak's U.S. Patent Application Publication No. 2002/0143645, the radio broadcast and interactive content having pre-defined user options is co-received in the vehicle 24 respectively by the vehicle's radio 28 and computer-based telematic control unit 26. Telematic unit Processor 30 "...presents the received interactive content to the motorist via user interface 38". The options pre-determined by the Applicant Odinak is referenced in paragraph 0021—second, third and fifth lines: "Main system 22 obtains information related to the broadcasted radio content...determines what interactive content to send ...[and]...provides the user with a variety of options...based on the interactive content presented over the radio." The user or vehicle occupier, if so interested, selects the co-broadcasted and pre-determined interactive content options presented on the telematic interface 38 (page 2/paragraph 0020—last line: "Using telematic control unit 26, the user can select from the offered content (products or services) directly related to the broadcasted radio content").

In contrast, as discussed in Crosby, the interactive content options are not predetermined, but are developed after a user has indicated a request or expresses an interest in something. In Crosby "...subscribers...request information pertaining to program segments broadcast..." (Crosby column 6/lines 13-16) "then, in response to commands entered by the subscriber, generates various interactive radio signals..." (Crosby column 7, lines 23-25). Thus Crosby teaches away from Applicant Odinak in that Crosby develops interactive content after ("then, in response to commands entered by the subscriber") a user, or subscriber has "request[ed] information pertaining to program segments broadcast".

In view of the amendments to Claim 1, Applicants respectfully assert that currently amended Claim 1, dependent claims 2-7, claim 8, and 9-10 are non-obvious and allowable over the Crosby and the combination of Crosby and Jackson 103(a) references.

With regards to 19-23, 25-33, 35-40, 42-51, and 53-54, Jackson similarly does not teach the recording of a request after transmission of content. Moreover, Jackson is primarily concerned with obtaining purchasing downloadable digital content that isn't associated with a particular radio broadcast in a traditional sense, but instead of a cellular distribution system that is heavily reliant upon using voice recognition devices and algorithms (see Jackson FIGURE 3, voice recognition selection circuit 48) to obtain downloadable digital content. Jackson neither teaches nor suggests what Applicant Odinak now claims in currently amended independent method and system Claims 19, 27, 37, 44, 47, 48, and 49. Accordingly, Applicants respectfully assert that currently amended Claims 1, 19, 27, 37, 44, 47, 48 and 49 and dependents claims deriving from these independent claims are non-obvious over the combination of the Crosby and Jackson 103(a) references. As regards claims 8, 24, 34, 41 and 52 are rejected as being unpatentable by the combination of Crosby, Jackson and Treyz, Applicants respectively assert that the current amendments of Odinak further teach away from Treyz. Though Treyz teaches the subjects of bank transactions, these bank transactions require the use of "voice-recognition algorithms" be applied to speech requests (see Treyz column 20, lines 4-12). Moreover, Treyz emphasizes the refining of voice recognition algorithms in that "Each user may train the voice-recognition algorithm separately if desired". Treyz does not teach nor suggest the use of speech requests without applying voice recognition. This dependency of using voice recognition algorithms is also necessary for the Jackson reference. In contrast, the instant application of Odinak permits the processing of speech requests by processes other than voice recognition, be these non-voice recognition processes apply to banking related or unrelated transactions. For example, paragraph 0027 of page 3 keywords such as "purchase", "candy", "buy jumbo club" are determinable by the teachings of Applicant Odinak without requiring voice recognition

algorithms. Due to the lack of requiring the voice recognition requirements of Jackson and Treyz, nor necessarily that speech is required for a user to make user-selected option requests should the user or vehicle occupant desire to do so, Applicants respectfully assert that currently amended Claims 1, 19, 27, 37, 44, 47, 48 and 49 and dependents claims deriving from these independent claims are non-obvious over the combination of the Crosby, Jackson, and Treyz 103(a) references.

#### **NEW CLAIM**

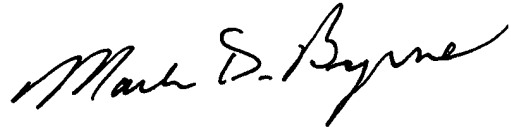
New method Claim 65, Applicants respectfully assert, concisely claim the teaching of Odinak that is enabled by the specification and is novel and non-obvious over the art of record. New Claim 65 is requested for entry into the application along with the claim amendments to the preceding claims.

### CONCLUSION

In view of the above amendments and remarks, Applicant requests entry of the amendments and a finding of allowability for pending claims 1-10, 19-54, and 65. If the Examiner has any questions, or desires that an interview be conducted with the Applicant, the Examiner may contact the Applicant's agent below.

Respectfully submitted,

BLACK LOWE & GRAHAM<sup>PLLC</sup>

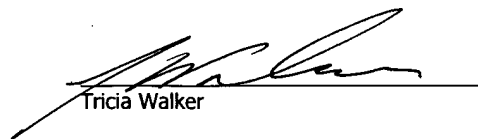


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### EXPRESS MAIL CERTIFICATE

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04/14/06  
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Tricia Walker